IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7977 of 2000

with

SPECIAL CIVIL APPLICATIONS Nos. 7879/2000, 8552/2000, 8666/2000, 8667/2000, 8668/2000, 8832/2000 & 9288/2000

For Approval and Signature:

HON'BLE MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHARATKUMAR NURJIBHAI DAMOR

Versus

STATE OF GUJARAT & ORS.

Appearance:

1. Special Civil Application No. 7977 of 2000

MR VD PARGHI for the Petitioner

MR LB DABHI, AGP for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2

MR NJ SHAH for MR DN PATEL for Respondent No. 3

CORAM : HON'BLE MISS JUSTICE R.M.DOSHIT

Date of decision: 11/09/2003

COMMON ORAL JUDGEMENT

All these petitions are set in similar facts and raise an identical challenge. All the petitions are, therefore, with the consent of the learned advocates, disposed of by this common judgment.

The petitioners in all these petitions are members either of a Scheduled Caste or a Scheduled Tribe.

Pursuant to the advertisement dated 1st November, 1995 published by the Gujarat Public Service Commission (hereinafter referred to as 'the Commission') the petitioners had applied for appointment to Gujarat Education Service Class-II (Administrative Branch). As mentioned in the said advertisement, 169 vacancies were required to be filled-in, of which, 12 vacancies were reserved for Scheduled Caste candidates and 25 vacancies were reserved for Scheduled Tribe candidates. All the petitioners were called upon to take the elimination test. Having cleared the elimination test, on 7th June, 2000 the petitioners were called upon to appear for oral interview. The said call letters, however, were cancelled under the impugned communications dated 3rd July, 2000. Feeling aggrieved, the petitioners have preferred the present petitions.

The Commission has appeared and has contested the petitions. The Commission has filed counter-affidavits.

On perusal of the records, it appears that though the State Government had made requisition for 169 vacancies in Gujarat Education Service Class-II (Administrative Branch), the Finance Department in the State Government, for the economic reasons, permitted to fill-in only 117 vacancies of the said 169 vacancies advertised. In view of the 117 vacancies to be filled-in the roster also had to be altered. After altering the roster of the 117 vacancies, 32 were computed to be reserved for Socially and Educationally Backward Classes. Not a single vacancy was reserved either for Scheduled Caste candidates or Scheduled Tribe candidates. It appears that the petitioners being reserved category candidates, they were permitted to take the elimination test after giving them benefit of relaxation in the upper age limit and were also given relaxation in the passing standard. Thus, had there been no vacancy reserved for Scheduled Caste/ Scheduled Tribe candidate, the petitioners' candidature as General Category candidates could not have been accepted. Hence, it transpires that the petitioners were not eligible for appointment to

Gujarat Education Service Class-II (Administrative Branch) as General Category candidates. There being no reserved vacancy for the Scheduled Castes/ Scheduled Tribes candidates, petitioners' candidature could not be considered.

In above view of the matter, the action of the Commission in cancelling the call letters dated 7th June, 2000 and in informing the petitioners accordingly cannot be considered to be arbitrary or discriminatory. Besides, pending these petitions, the interviews have been completed and a select list of 99 candidates has also been prepared on 5th August, 2000.

In above view of the matter the petitions are dismissed. Rule nisi issued in each of these petitions is discharged. The parties shall bear their own costs.

Registry shall maintain copy of this order in each of these petitions.

(Ms. R.M.Doshit, J.)

/sakkaf